

community services at military installations to be closed under the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100-526), as amended, and the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101-510), as amended.

[59 FR 36089, July 15, 1994, as amended at 60 FR 29500, June 5, 1995]

**237.7401 Policy.**

The authority in 206.302-5(b)(ii) to contract with local governments—

(a) May be exercised without regard to the provisions of 10 U.S.C. Chapter 146, Contracting for Performance of Civilian Commercial or Industrial Type Functions;

(b) May not be exercised earlier than 180 days before the date the installation is scheduled to be closed;

(c) Requires a determination by the head of the contracting activity that the services being acquired under contract with the local government are in the best interests of the Department of Defense.

(d) Includes the requirement of subpart 222.71, Right of First Refusal of Employment, unless it conflicts with the local government's civil service selection procedures.

[59 FR 36089, July 15, 1994, as amended at 60 FR 29500, June 5, 1995]

**237.7402 Contract clause.**

Use the clause at 252.237-7022, Services at Installations Being Closed, in solicitations and contracts based upon the authority of this subpart.

[59 FR 36089, July 15, 1994, as amended at 60 FR 29500, June 5, 1995]

**Subpart 237.75—Acquisition and Management of Industrial Resources**

SOURCE: 74 FR 37646, July 29, 2009, unless otherwise noted.

**237.7501 Definition.**

*Facilities project*, as used in this subpart, means a Government project to provide, modernize, or replace real property for use by a contractor in performing a Government contract or sub-contract.

**237.7502 Policy.**

(a) Comply with DoD Directive 4275.5, Acquisition and Management of Industrial Resources, in processing requests for facilities projects.

(b) Departments and agencies shall submit reports of facilities projects to the House and Senate Armed Services Committees—

(1) At least 30 days before starting facilities projects involving real property (10 U.S.C. 2662); and

(2) In advance of starting construction for a facilities project regardless of cost. Use DD Form 1391, FY\_\_\_ Military Construction Project Data, to notify congressional committees of projects that are not included in the annual budget.

**SUBPART 237.76—CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES**

SOURCE: 75 FR 10193, Mar. 5, 2010, unless otherwise noted.

**237.7600 Scope.**

This subpart prescribes procedures for the acquisition of essential contractor services, which support mission-essential functions.

**237.7601 Definitions.**

As used in this subpart—

*Essential contractor service* means a service provided by a firm or individual under contract to DoD to support mission-essential functions, such as support of vital systems, including ships owned, leased, or operated in support of military missions or roles at sea; associated support activities, including installation, garrison, and base support services; and similar services provided to foreign military sales customers under the Security Assistance Program, that are essential if the effectiveness of defense systems or operations has the potential to be seriously impaired by the interruption of these services, as determined by the appropriate functional commander or equivalent.

*Mission-essential functions* means those organizational activities that must be performed under all circumstances to achieve DoD component